

**Records, Secretary of State's Office. Secretary of State,
Records Of. Loose Leaf Book, Records In.**

The secretary of state has the authority to use the loose leaf book in keeping the records required to be kept by provisions of Section 154, Revised Codes.

January 16, 1912.

Hon. T. M. Swindlehurst,
Secretary of State,
Helena, Montana.

Dear Sir:

I acknowledge receipt of your letter of the 9th inst., submitting the question.

May the deeds, bonds, etc., mentioned in Subdivisions 4 and 5 of Sec. 154, Revised Codes, be recorded in a "loose leaf book," the book when complete to be securely bound, or must such instruments be recorded in a bound book?

Comparing this law with the law relating to county records we find a very material difference. Sec. 3032, Revised Codes, require the county records to be kept in well bound separate books, etc. The law relating to the records kept by the secretary of state is to the effect that "proper books" shall be used, but seems to confer upon the secretary the authority to determine what books are proper for that purpose. The objects to be obtained by a record in the county clerk's office and in the office of the secretary of state are also different. When the county clerk has recorded an instrument it is then returned to the owner and the only official record thereof is that made by the clerk, but when the secretary of state has recorded an instrument, the instrument itself is kept in official possession, either of the secretary of state or the treasurer. And as to conveyances a record is also preserved in the county clerk's office of the county in which the property is situated. Hence, the recording of an instrument by the secretary of state is largely a matter of convenience and also to guard against any contingency of one of the original papers so recorded being lost or destroyed.

The "loose leaf book" is kept wholly within your possession—the leaves are so fastened that they cannot fall out unless purposely removed and when the book is complete the leaves are as securely fastened as in any book.

I am, therefore, of the opinion that you have the authority to use the so-called loose leaf book in keeping such records.

Yours very truly,

ALBERT J. GALEN

Attorney General.